

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SCOTT P. McKINSTRY,

Petitioner,

vs.

ROBERT L. AYERS, JR.,^{1/} Warden,

Respondent.

No. 1:02-CV-06267-JKS

FINAL JUDGMENT

The Court having entered its Memorandum Decision and Order of even date herewith disposing of all issues presented by the petition,

IT IS ORDERED, ADJUDGED AND DECREED THAT the Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus is **GRANTED**.

IT IS FURTHER ORDERED THAT, unless the State of California retries Petitioner on count I (Murder) of the information within a reasonable time, consistent with California's speedy trial requirements, Petitioner Scott P. McKinstry must be released from custody at such time as he would otherwise be released if he were convicted and sentenced solely on Counts II, III, and IV of the information.

Dated: April 12, 2007.

s/ James K. Singleton, Jr.
JAMES K. SINGLETON, JR.
United States District Judge

^{1/} Robert L. Ayers, Jr., warden of the California State Prison, San Quentin, is substituted for George J. Giubino, warden of the California State Prison, Centinela. FED. R. CIV. P. 25(c).